

February 7, 2019

Mr. Henry Leskinen  
Eco-Science Professionals, Inc.  
P.O. Box 5006  
Glen Arm, MD 21057

Re: Merritt BZ, LLC Property at 2000 Hammonds Ferry Road  
Forest Conservation Variance  
Tracking #01-19-2914

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on January 25, 2019. The request seeks a variance from Section 33-6-108 in order to subtract the impervious surface from the net tract area and base afforestation requirements solely on the pervious surface area. The applicant is proposing to construct an industrial warehouse/general office building on the project site. Currently, the property is developed with compacted gravel/macadam/dirt parking lots, macadam access lanes, various concrete pads and structures, and previously contained a detached building that has been razed. No forest or specimen trees exist on the property.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The petitioner is seeking to construct a warehouse and office building on the subject property. Full application of the law would increase the cost of complying with Forest Conservation Law, but would not deprive the petitioner of all beneficial use of the property. Consequently, we find that this criterion has not been met.

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The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to the costs of fully complying with Forest Conservation Law for a site that is predominantly impervious surface rather than general conditions of the neighborhood. Therefore, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of a mix of high-density residential, commercial, and industrial areas. The property is currently being used a truck storage yard. Building a warehouse on this site will not alter the essential character of this neighborhood. Therefore, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any wetlands, streams, floodplains, associated buffer areas, or forest. Currently, surface water runoff containing oil and grease from trucks in the storage yard is able to enter the offsite storm drain untreated. The proposed redevelopment includes installation of two water quality facilities to treat runoff from the site before it enters the storm drain system. As a result, this Department finds that the proposed variance will not adversely affect water quality. Consequently, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. No forested areas or specimen trees will be impacted by the proposed project. Moreover, water quality management of currently untreated storm runoff will be provided in redeveloping the site. In addition, 80% of the proposed construction will be redevelopment of impervious area. Finally, Maryland State Law allows projects that are redevelopment of impervious surface but that do not qualify for a waiver to subtract the impervious surface from the net tract area on the Forest Conservation Worksheet. Consequently, this Department finds that this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and that this criterion has been met.

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Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following:

1. The following note must be on all subsequent plans for this development project:

“A variance was granted on January 30, 2019 by the Baltimore County Department of Environmental Protection & Sustainability to subtract the impervious surface from the gross tract area and base afforestation requirements solely on the pervious surface acreage. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met.”

2. A final Forest Conservation Plan for the property shall be submitted to EIR and approved prior to any EIR approval of any grading/sediment control plan or permit for this property.
3. This variance approval does not exempt future development activities at this site from compliance with Baltimore County’s Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Acting Director

DVL/lbe

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- c. Ms. Gena McNichol, Merritt BZ1, LLC  
Mr. Valek Zarski, Baltimore Land Design Group

I/we agree to the above conditions to bring my/our property into compliance with  
Baltimore County's Forest Conservation Law.

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Owner's Signature

Date

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Printed Name